

**REMARKS**

This amendment is filed in response to the non-final Office Action<sup>1</sup> of July 7, 2008. Claims 1-5, 7-15, 18-28, 30-40, 43 and 44 were presented for examination and stand rejected. Claims 6, 16, 17, 29, 41 and 42 were previously canceled without prejudice or disclaimer. No claims are hereby added or canceled. Claims 1, 22, 28 and 32 are in independent form and each claim is amended. Support for the amendment can be found in the specification as originally filed; for example, see at least paragraphs [0003], [0027] and [0035]. Claims 1-5, 7-15, 18-28, 30-40, 43 and 44 are pending.

Claims 1-4, 7-15, 18-21, 23, 27 and 37 are rejected under 35 U.S.C. § 103(a) as allegedly being un-patentable over U.S. Patent No. 5,937,037 to Kamel et al. (hereinafter “Kamel”) in view of U. S. Patent No. 6,857,024 to Chen et al. (hereinafter “Chen”) and further in view of U. S. Patent No. 6,526,335 to Treyz et al. (hereinafter “Treyz”). Claim 5 is rejected under 35 U.S.C. § 103(a) as allegedly being un-patentable over Kamel in view of Chen and further in view of Treyz and further in view of U. S. Patent No. 7,363,302 to Lester (hereinafter “Lester”). Claims 22, 24-26, 28, 30-36, 38-40, 43 and 44 are rejected under 35 U.S.C. § 103(a) as allegedly being un-patentable over Kamel in

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<sup>1</sup> The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicant may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

view of Treyz. Applicant respectfully traverses these rejections for the following reasons.

Consider, for example, claim 1, which is rejected under 35 U.S.C. § 103(a) as allegedly being un-patentable over Kamel in view of Chen and further in view of Treyz, and which recites:

1. A method of message delivery using a voice mail message system, comprising:
  - receiving from a party at said voice mail message system, a voice mail message and a category designation for said message;
  - storing said message in a storage area, said storage area accessed by said voice mail message system and corresponding to said category designation for said message;
  - retrieving messages from said storage area based on a user of said voice mail message system choosing said category designation;
  - presenting said messages to said user;
  - providing a first choice for said user to place a call to said party;
  - providing a second choice for said user to subscribe to future messages from said party when said message is presented to said user;
  - identifying said future messages received at said message system from said party as subscribed to messages for said user, when said user chooses said second choice; and
  - retaining access by other users of said voice mail message system to said message after said user deletes said message which restricts further communication on said message between said user and said party, whereby subsequent retrieval of said message by said user is restricted while subsequent retrieval of said message by any of said other users is not restricted.

(Claim 1, emphasis added.) Claim 1 is a method claim that has been amended to recite an access retaining step. Without acquiescing in the rejection of claim 1 prior to the instant amendment, Applicant submits that there is no teaching or suggestion to be found in either Kamel, Chen or Treyz of “retaining access by other users of said voice mail message system to said message after said user deletes said message which restricts

further communication on said message between said user and said party, whereby subsequent retrieval of said message by said user is restricted while subsequent retrieval of said message by any of said other users is not restricted.” as recited in claim 1.

For example, Kamel teaches the opposite. In Kamel, the control over the message that was sent from the potential advertiser (i.e., third party sponsor) to an end user (e.g., calling party) is retained by the potential advertiser. In column 12, lines 55-61 of Kamel, it discusses how the sponsor of the telephone call (the potential advertiser) can specify the number of times and over what period of time the end user should be exposed to the message. The sponsor controls the exposure of the message to the end user. There is no discussion in Kamel of user control where the user could reject/restrict the third party sponsor message. Therefore Kamel does not read on “retaining access by other users of said voice mail message system to said message after said user deletes said message which restricts further communication on said message between said user and said party, whereby subsequent retrieval of said message by said user is restricted while subsequent retrieval of said message by any of said other users is not restricted.”

Turning to Chen, it also teaches the opposite. Chen relates to a system and method in which an initiating caller (a user) using a station connected to a data network receives advertisement information from a third party advertiser while waiting for a call to complete between the station and a receiving party. (Abstract) In other words, the “initiating caller” is interested in placing a call to a “receiving party” and while that is being implemented over, perhaps, a 1-2 minute interval (*see* col. 4, line 12), instead of

allowing “dead air,” a third party advertiser attempts to interest the initiating caller in a product or service. The initiating caller or user has a choice: (1) let the advertising play out and then complete the call to the receiving party or (2) interrupt the advertising, cancel the phone call to the receiving party, which was in the process of being implemented, and order the product or service being advertised.

Indeed, in Fig. 10 of Chen, at block 125 the original call from the advertiser to the user can be terminated by the user whereupon Chen teaches that there is an attempt to connect the user to the advertiser. This is discussed in Chen, at least at column 9, lines 55 through column 10, line 2. Therefore, although the initiating party user can technically “discontinue” the message from the advertiser, such discontinuance is accompanied by user-receipt of additional advertising information related to that message, along with a mechanism for ordering the advertised goods or services. This is the opposite of what is being claimed. Deletion of that message by the user in Chen does not restrict further communication related to that message between the user and the advertiser. Therefore Chen does not read on: “retaining access by other users of said voice mail message system to said message after said user deletes said message which restricts further communication on said message between said user and said party, whereby subsequent retrieval of said message by said user is restricted while subsequent retrieval of said message by any of said other users is not restricted.” as recited in claim 1.

Treyz simply does not disclose or suggest any subject matter that is related to the language added to claim 1 by way of this amendment. And, Lester was not cited against claim 1 nor does it disclose or suggest this limitation either.<sup>2</sup>

Consequently, all limitations of claim 1 are not disclosed or suggested by Kamel, Chen or Treyz taken individually or in any reasonable combination, (and Applicant does not acquiesce that these three references are properly combinable in the first place). Accordingly, the 35 U.S.C. § 103(a) rejection of claim 1 as allegedly being un-patentable over Kamel in view of Chen and further in view of Treyz should be withdrawn and the claim allowed.

The other independent claims 22, 28 and 32 have each been similarly amended. Claims 22, 28, and 32 are rejected under 35 U.S.C. § 103(a) as allegedly being un-patentable over Kamel in view of Treyz.

Claim 22 recites, *inter alia*: “retaining access by other users of said message system to said one of said retrieved messages after said user deletes said one of said retrieved messages which restricts further communication about said one of said retrieved messages between said user and said party, whereby subsequent retrieval of said one of said retrieved messages by said user is restricted while subsequent retrieval of said one of said retrieved messages by any of said other users is not restricted” which is not disclosed

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<sup>2</sup> Lester is cited against claim 5 only; the Office Action cite, pg 7, may be incomplete, where it appears that the column reference was omitted.

or suggested by Kamel, Chen, Treyz or Lester taken individually or in any reasonable combination.

Claim 28 recites, *inter alia*: “said access controller permitting access by other users of said message system to said respectively categorized messages after said user deletes at least one of said respectively categorized messages which restricts further communication about said at least one of said respectively categorized messages between said user and said subscriber to said message system, whereby subsequent retrieval of said at least one of said respectively categorized messages by said user is restricted while subsequent retrieval of said at least one of said respectively categorized messages by any of said other users is not restricted” which is not disclosed or suggested by Kamel, Chen, Treyz or Lester taken individually or in any reasonable combination.

Claim 32 recites, *inter alia*: “retaining access by other users to all of said messages after said user deletes any of said messages presented to said user which restricts further communication on said any of said messages between said user and said party, whereby subsequent retrieval by said user of said any of said messages presented to said user is restricted while subsequent retrieval of said all of said messages by any of said other users is not restricted” which is not disclosed or suggested by Kamel, Chen, Treyz or Lester taken individually or in any reasonable combination.

Claims 2-5, 7-15 and 18-21 which are dependent directly or indirectly from claim 1 are also allowable, at least for reasons based on their respective dependencies from an allowable base claim.

Claims 23-27, which are dependent directly or indirectly from claim 22 are also allowable, at least for reasons based on their respective dependencies from an allowable base claim.

Claims 30-31, which are dependent directly or indirectly from claim 28 are also allowable, at least for reasons based on their respective dependencies from an allowable base claim.

Claims 32-40 and 43-44, which are dependent directly or indirectly from claim 32 are also allowable, at least for reasons based on their respective dependencies from an allowable base claim.

**CONCLUSION**

Reconsideration and allowance are respectfully requested based on the above amendments and remarks.<sup>3</sup> If there are any remaining issues or if the Examiner believes that a telephone conversation with Applicant's attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned. Early passage to issue is respectfully requested.

To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. Please charge any other fees due, or credit any overpayment made to that account.

Respectfully submitted,

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<sup>3</sup> As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.